

**TESTIMONY BEFORE THE MICHIGAN HOUSE COMMERCE
COMMITTEE REGARDING MODULAR HOUSING THIRD PARTY
PLAN REVIEW AS REQUIRED UNDER ACT 721 of 2002**

By

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My name is Steve Snyder. I am the Executive Director of the Modular Building Systems Association, a national trade association representing the modular housing industry.

Thank you for this opportunity to testify here today regarding the Department of Labor and Economic Growth's (DLEG) continued and systematic effort to stall the implementation of a third party modular plan review program, in spite of a clear legislative mandate.

By way of background, modular homes are homes built in sections in a factory and shipped to the new home site where they are placed on permanent foundations and become real property. These homes are built to the same state building code used by conventional site builders. Because these homes are built in factories, both within the State of Michigan and in surrounding states, the building plans must be approved at the state level prior to beginning construction. In nearly every state in the country, the state makes use of a third party plan review program, where the state approves third party engineering companies to do plan review on behalf of the state. This program provides comprehensive plan review in a timely manner. In the past, Michigan has been one of only a few states that does not utilize third party plan reviewers and the result has been lengthy delays in the plan review process

In 2002, the Modular Housing Industry was successful in getting legislation passed to require the Department of Labor and Economic Growth to institute a

third party building plan review program utilizing **“independent entities approved by the commission,”** which are private sector engineering companies licensed to do plan review for modular housing. At that time, the Department opposed the legislation; however, it past with a substantial majority in both the House of Representatives and the Senate and was signed into law by the Governor in December 2002. The legislation requires the DLEG to write regulations to approve third party, engineering firms to perform modular residential building plan review on behalf of the State. This program would be consistent with the method that all surrounding states utilize for plan approval. It would also streamline the process by reducing the excessive delays our industry experiences in having to submit building plans to the Department. Currently, it can take between six (6) and eight (8) weeks to have a plan reviewed by the Department of Labor and Economic Growth in Michigan, compared to several days in states utilizing third party plan review.

Since this legislation was passed over three years ago, the Department has continued to stall and delay the establishment of the third party plan review program. It took the Department over two years to adopt the regulations to approve the independent third party plan review companies. Our industry continually wrote letters and made telephone calls requesting that the Department promulgate these regulations as required by law. When the regulations were finally completed and third party agencies tried to apply, they were told that no applications were available. Six months later, when applications were finally made available, four third party agencies made application to participate in the program. After applying, all four of the applications were subsequently turned down. The reason given was that as written, the regulations required that in order to perform plan review, the applicant had to be **“employed by a government unit.”** Third party plan review agencies are, by definition, not governmental units. They are **“independent entities”** Just as the Act requires. This requirement set forth by the Department will make it imposable for any third party company to qualify for the

program, thus making the program nonexistent. The third party plan review program adopted by the legislature require the state to utilizing private sector engineering companies to do third party plan review for modular housing. These companies have been licensed in every other state in the United States to do plan review and are highly qualified.

In spite of our industry's continued requests, the Department of Labor and Economic Growth staff has demonstrated a systematic and concentrated effort to stall the inception of this program which is required by legislative mandate. Our concern is that even if we were successful in getting the Department to establish the program, and approve the third party agencies, the Department would come up with yet another obstacle making the plan unworkable.

This situation cannot continue. The Department has basically ignored the legislative mandate given to them over three years ago when this legislation was passed. We would now, respectfully request the assistance of the House Commerce Committee in requiring the Department to follow the law passed by the legislature and stop the stalling tactics.

Again, thank you for this opportunity to testify before the committee.

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(5) A local enforcing agency may also inspect a premanufactured unit at its place of manufacture to determine that it has been manufactured in accordance with plans and specifications submitted under subsection (2) and shall advise the state inspector and the commission in writing of any deviations found.

(6) An approved independent entity shall not conduct in-plant inspections of units for which it performed plan reviews. However, the manufacturer may request a variance from the commission if the literal application of the requirements of this section would result in an exceptional, practical difficulty relating to inspection of specific units. For purposes of this subsection, "exceptional, practical difficulty" includes, but is not limited to, a geographic distance between the manufacturing facility where the units are manufactured and the primary business location of the independent entity that conducts in-plant inspections on behalf of the manufacturer of more than 250 miles and is located in another state.

(7) If an application for a building permit specifying use of a premanufactured unit with a certificate of acceptability is submitted to an enforcing agency, and if the application, except for the part calling for use of a premanufactured unit with a certificate of acceptability, complies with applicable construction regulations, zoning laws, and local ordinances, the enforcing agency shall issue the building permit within the time specified in this act.

(8) At the time of installation, a premanufactured unit with a certificate of acceptability is subject only to the nondestructive tests approved by the department necessary to determine that it has not been damaged in transit or installation, and that it has been installed in accordance with the building permit and construction regulations.

(9) The fees established for a building permit when the application specifies use of a premanufactured unit with a certificate of acceptability, or for inspection of the installation of the premanufactured unit shall bear a reasonable relation to the costs incurred by the enforcing agency in issuing a permit or performing an inspection.

(10) Notwithstanding any other provision of this section, an enforcing agency may object to use of a premanufactured unit with a certificate of acceptability on the basis that the premanufactured unit does not comply with the code. If an enforcing agency on receipt of an application for a building permit specifying the use of a premanufactured unit does object, it may set forth its objections in writing to the department before issuance of a building permit and within 10 business days after receipt of the application. Within 10 business days after receipt of the objections, the commission, or a panel of 3 or more members designated for that purpose by its chairman, shall hold a hearing on the objections in accordance with rules promulgated by the department. After the hearing, the commission, or its panel, within 3 business days shall determine 1 of the following:

(a) The premanufactured unit does not comply with the code and order that the certificate of acceptability be voided.

(b) The premanufactured unit requires additional testing and evaluation in which case the testing and evaluation shall be conducted in accordance with this section.

(c) The objections are not valid and order the enforcing agency to issue the building permit within 3 business days.

(11) A certificate of acceptability issued by the department shall not be used for advertising purposes.

This act is ordered to take immediate effect.

Secretary of the Senate.
Clerk of the House of Representatives.
Approved
Governor.